

Responses to additional questions on the occasion of the review of Canada's Fourth and Fifth Reports on the International Covenant on Economic, Social and Cultural Rights

Canada appeared before the United Nations Committee on Economic, Social and Cultural Rights on May 5 and 8, 2006 to respond to questions on Canada's implementation of the *International Covenant on Economic, Social and Cultural Rights*. Given the large number of questions raised and time constraints, the Committee indicated that Canada could provide written responses to questions that it did not have time to answer.

Security of tenure

In addition to the response given by Ontario, it was asked whether all provinces have legislative or other measures to protect security of rental tenure or prevent forced evictions. Other provincial jurisdictions have indicated they do have protections in place, most within residential tenancy legislation, or within housing and expropriation acts. While a landlord can give notice to a tenant, the tenant can appeal and only after all other methods have been exhausted could an eviction take place and then it must follow proper and legal mechanisms – evictions are rare.

Additional information on provincial measures with respect to evictions and expropriation of property can be found in the response to question 14 related to Canada's Fifth Report on the ICESCR.

Extension of the Court Challenges Program

The Committee asked why the Court Challenges Program was not extended further to the Committee's previous concluding observation. An independent evaluation of the Court Challenges Program in 2003 found that there are dimensions of the constitutional provisions currently covered by the program that still require clarification. The program was subsequently renewed until 2009 with its existing mandate. To expand the Court Challenges program to support challenges of legislation and policies of all provincial and territorial jurisdictions would require significant additional resources. It is always a challenge to strike a balance between social programming and fiscal responsibility. It is not possible for the government to support all court challenges, but with its current mandate and resources this program continues to make significant contributions to important court cases of national significance that have direct impacts on implementation of equality rights in Canada. To our knowledge, this program remains a uniquely Canadian practice. Canada would be interested to know whether the Committee has recommended that other states implement such a program.

Charte québécoise des droits et libertés de la personne

The Committee inquired on the steps taken by the Government of Québec in response to the review by the Commission des droits de la personne et des droits de la jeunesse of the

Québec Charter of Human Rights and Freedoms. The response can be found under question 5 on the list of issues related to Canada's Fourth Report on the ICESCR. The only new development is the adoption by the National Assembly of the *Sustainable Development Act* on April 13, 2006. The Act amends the Québec Charter by introducing a "right to live in a healthful environment in which biodiversity is preserved, to the extent and according to the standards provided by law."

Intergovernmental coordination on Aboriginal languages and culture

Federal-provincial-territorial Ministers of Culture and Heritage have directed the establishment of a Working Group on Aboriginal Cultural Retention. The Working Group is charged with reviewing the recommendations of the Task Force on Aboriginal Languages and Cultures and with exploring possibilities for collaboration on preserving, revitalizing and promoting Aboriginal languages and cultures in Canada.

Use of Aboriginal languages in Canadian courts

The use of Aboriginal languages in court is common, particularly in Nunavut, the Northwest Territories and Yukon. Provincial and territorial governments generally provide interpreters in criminal and family courts as required to facilitate the language preference of a party to the matter, including for Aboriginal languages. In British Columbia, interpretation services are provided as required in criminal matters. In civil matters, the parties must pay for interpretation services. In Ontario, interpretation services are provided for Aboriginal litigants in any language required in criminal matters and child protection matters. It also provides interpretation services in any language in civil, family and Small Claims Court matters, if the litigant qualifies for a waiver of court fees on the basis of income, and whenever ordered by the court. In Québec, interpretation is provided free of charge in all criminal proceedings. In civil matters, the cost of interpretation services is borne by the party requesting these services. However, in accordance with the James Bay and Northern Québec Agreement and the Northeastern Québec Agreement, the First Nations party to the agreements (Cree, Inuit and Naskapi) benefit from this service free of charge.

The Nunavut Court of Justice uses the Inuit languages (3 regional dialects, for Kitikmeot, Keewatin, and Qukitaalik) quite often in court via Certified Court Interpreters. The practice of using an interpreter occurs for every court circuit outside of Iqaluit, and in Iqaluit, there is always one present during docket and trial week. Interpreters are recruited from all regions in Nunavut to work in areas specific to their dialect.

Additionally, provincial/territorial governments are instituting measures in an effort to provide services in a culturally sensitive manner. For example, the Provincial Court of Alberta sits in a number of First Nation communities. In some locations, the judge, the crown prosecutor and/or judicial clerks are Aboriginal.

A Northern Cree Court was implemented in Saskatchewan in 2001. The Court includes a Provincial Court judge, prosecutor, court clerk and interpreter who are fluent in the Cree

language. Probation officers who are fluent in Cree also travel with the court, and Legal Aid provides a staff lawyer who has some Cree-speaking abilities. It is expected that an Aboriginal Court Party, which will serve an area with a large population of Dene people, will be operational in the fall of 2006. Both Dene and Cree languages will be accommodated, through translation.

Manitoba has implemented the Aboriginal Court Worker Program. Court Workers generally assist Aboriginal people who are in contact with the law – by helping them understand what happens when they have been arrested or come before a court, by attending court and interpreting what is being said, explaining the charges and why the person is in court, explaining the person's rights, referring the person to Legal Aid and helping them to fill out papers, etc. The Court Workers also assist the court by helping the judge and Crown attorney understand the situation of the person on trial. Court Workers provide language support primarily to the person who has been charged (the accused) and between the accused and counsel, but in court circuit locations where no interpreters are available, the Court Worker also provides this service for the court.

The federal Department of Justice supports the Native Courtworker Program through cost-sharing agreements with all participating provinces and territories. It benefits all Aboriginal adults and youth in conflict with the law, regardless of their status or residency. This Program works to ensure that Aboriginal people involved in the criminal justice system obtain fair, just, equitable and culturally-sensitive treatment under the law.

Native Courtworkers provide counseling (other than legal) to adults and youths who have committed or are alleged to have committed a criminal offence. They also help Aboriginal adults or young offenders to understand their legal rights and to obtain legal assistance; and they promote better appreciation of the cultures and socio-economic conditions of Aboriginal people on the part of those who administer the criminal justice system. As part of their evolving role in the community, courtworkers are becoming increasingly involved with community-based alternatives to the criminal justice system.

Use of Aboriginal languages in education

Many provinces and territories in Canada offer instruction in Aboriginal languages. For example, as stated by Nunavut during the review, Inuktitut is the language of instruction from kindergarten through grades 3-4 in Nunavut. In addition, Alberta offers Cree, Blackfoot and Stoney/Nakoda language and cultures courses; instruction in Innu Eimun and Inuktitut is offered in Newfoundland and Labrador; the Ontario Native languages program may be offered in any of the following languages: Cayuga, Cree, Delaware, Mohawk, Ojibwe, Oji-Cree and Oneida; and Cree and Dené language components are offered as part of the curriculum in Saskatchewan.

Information on these and other Aboriginal language curriculum initiatives can be found in the response to question 46 on the list of issues related to Canada's Fourth Report on the ICESCR.

Teaching of Aboriginal culture to non-Aboriginal children

Provinces have incorporated Aboriginal cultural studies into the standard elementary and secondary school curricula. See response to question 46 on the list of issues related to Canada's Fourth Report on the ICESCR for additional information.

Measures to address the education gap between Aboriginal peoples and non-Aboriginal Canadians

The Committee inquired about measures governments have instituted to address the education gap between Aboriginal people and non-Aboriginal Canadians and whether there is coordination among the jurisdictions to address this gap.

The Council of Ministers of Education Canada (CMEC) is the coordinating body of provincial and territorial ministers on education matters. In September 2004, Canada's ministers of education declared Aboriginal Education to be a priority issue deserving targeted activity.

By declaring Aboriginal Education to be a priority, ministers have acknowledged the need to find new and varied ways of working together to improve the outcomes of Aboriginal students across both the elementary-secondary and postsecondary education systems. They know that improved education outcomes for Aboriginal students will enable them to be active participants in their communities, strengthen their attachment to the labour force, and prepare them for the complexity of a knowledge-based economy.

Ministers decided to focus their activities on the following three objectives:

Objective 1: To identify and share provincial/territorial/federal "best practices" in elementary-secondary and postsecondary education systems.

Objective 2: To strengthen the capacity for evidence-based decision making through actions that include: (a) establishing an approach to encourage Aboriginal students to self-identify, (b) coordinating common data and indicator definitions, and (c) initiating parallel data-collection procedures.

Objective 3: To develop a pan-Canadian framework for action related to teacher training, in collaboration with provincial faculties of education, boards, departments, and professional associations, and in consultation with provincial and territorial Aboriginal education organizations to: (a) strengthen and share measures initiated to ensure that relevant teacher training related to helping new teachers understand the needs of and challenges faced by Aboriginal students is undertaken, (b) establish mechanisms to recruit and train more Aboriginal teachers, and (c) provide ongoing, in-service training opportunities to teachers to provide current information and enable them to upgrade their skills.

The primary targeted deliverables for the plan include:

- A “Best Practices in Aboriginal Education Guide” that contains an inventory of practices, programs and policies that have successfully contributed to student success and teacher training across Canada. This guide will allow jurisdictions to learn from one another’s success, facilitate the sharing of information and learning/teaching resources, and inform jurisdictional planning and policy development.
- The ability to develop and report reliable sets of pan-Canadian Aboriginal education indicators (elementary-secondary and postsecondary) that are based on enhanced self-identification rates, and common data elements across all jurisdictions. Regularly reported indicators will help to inform both the public and ministries of education on how success is being achieved.
- A framework that can be used in all jurisdictions to enhance the teacher pre- and in-service training programs for Aboriginal teachers and for teachers who work in Aboriginal communities. The framework will focus on attracting more Aboriginal people to enter and complete teacher training programs, and assisting school divisions to provide relevant professional development and ensure higher rates of Aboriginal teacher retention.

Examples of measures undertaken by provincial and territorial governments to address the education gap follow.

Information on Manitoba’s Aboriginal Education Action Plan can be found in paragraph 316 of *Canada’s Fifth Report on the International Covenant on Economic, Social and Cultural Rights*. In addition, the Government of Manitoba created the University College of the North (UCN), a post-secondary institution that is reflective of the Aboriginal population of the north, and which provides programming that is specific to the needs of that community. UCN’s governance structure includes a Council of Elders to advise the institution on Aboriginal and cultural matters. The Province supports ACCESS programming, a set of financial, student and personal support systems that help students who are less well prepared to attend post-secondary education. Aboriginal students are the principle focus and the main clients of the program. The Government also offers a number of financial awards to assist Aboriginal students with the cost of tuition, books and supplies, including the Provincial-Aboriginal Education Awards, the Provincial-Millennium Opportunities Grant, and Provincial-ACCESS Bursaries. The Aboriginal Academic Achievement Grant is provided to school divisions to support the academic needs of Aboriginal students.

Examples of other initiatives include the development of literacy strategies and targets to specifically address the achievement of the First Nation student population in New Brunswick. In addition, the newly formed New Brunswick Provincial Aboriginal Education Committee (which consists of representatives of the Aboriginal communities, school districts, Aboriginal Affairs, Indian and Northern Affairs Canada and the New Brunswick Department of Education) will assist in charting direction for Aboriginal

education in New Brunswick. It will be recommending an Aboriginal Education Strategy to the Department of Education.

The Government of Alberta has a number of measures aimed at improving the education success of Aboriginal students, including Aboriginal Teacher Education Programs at the University of Alberta (aimed at increasing the number of Aboriginal teachers in communities in northern Alberta) and the University of Lethbridge (a specialized, culturally sensitive Blackfoot teacher education program), an Aboriginal Health Careers Program at the University of Alberta, to assist Aboriginal students to gain admission and graduate from the Faculty of Medicine and Dentistry, and the other Professional Health Sciences Faculties, and an Aboriginal Practical Nurse Certificate program at Bow Valley College that provides an opportunity for students to acquire the knowledge, skills and values required as a Practical Nurse in the context of Aboriginal culture, values, spirituality and traditional methods of healing. The province also has a number of apprenticeship program in place that provide opportunities for students to explore career options through applied learning activities.

The Government of British Columbia disaggregates and reports Aboriginal students demographic and achievement data to enable the school system to work with all Aboriginal communities to support the continuous improvement in the success of Aboriginal students.

In 1998, the Government of Nova Scotia enacted the *Mi'kmaq Education Act*, which provides for a form of self-government in the provision of primary and secondary education.

In the Northwest Territories, the community-based Adult Education programs are targeted to Aboriginal people as most residents in smaller communities of the Territory are Aboriginal.

The Government of Yukon is undertaking an Education Reform project. The purpose of the project, which is co-chaired by the Government and the Council of Yukon First Nations, is to devise ways in which the education gap between First Nation students and students in the rest of the population may be bridged. It is expected that the results of the project will have a huge impact on how education will be delivered in the Yukon. Other initiatives include:

- The Yukon First Nation Education Advisory Committee, which provides technical advice, guidance, support and recommendations to the Department of Education's Public Schools Branch and its programming staff in relation to Yukon First Nations education in the K-12 system.
- The Department of Education provides financial support to First Nation language teacher trainees in order to ensure that Yukon schools have an adequate amount of teachers to teach First Nation languages
- Under the Tro'ndek Hwech'in First Nation Self-Government Agreement, discussions related to negotiating responsibility for education programs are focused on

establishing cooperative working relationships that will improve education services for First Nations students.

- As part of discussions on a possible Western Canadian Aboriginal Training Strategy, western provinces and territories are conducting a survey with First Nations that focuses on best practices and gaps that exist in skills training and post-secondary education.

First Nations and Métis Education is a key priority for the Saskatchewan government. Maximizing student achievement is central to coordinated efforts in First Nations and Métis Education. The Continuous Improvement Framework supports actions to improve outcomes for all students and especially First Nations and Métis students as an identified target for 2006-2008. Investments in First Nations and Métis Education include the Community Schools Program, Indian and Métis Education Development Program, Elders Outreach, and the Aboriginal Initiatives Fund.

The Post-Secondary Sector Aboriginal Education and Training Action Plan was developed, with input from the post-secondary education sector (regional colleges, Saskatchewan Institute of Applied Science and Technology, Gabriel Dumont Institute of Native Studies and Applied Research, Dumont Technical Institute, First Nations University of Canada, University of Regina and University of Saskatchewan), to improve the access and success of Aboriginal people in post-secondary education, training and employment. The Action Plan assists the post-secondary education and training sector to support Saskatchewan's competitive advantage - a representative, skilled Aboriginal work force.

The goals of the Action Plan are:

- Enhance the successful entrance and completion of post-secondary education for Métis and First Nations people;
- Prepare Métis and First Nations people to participate in a representative provincial work force;
- Ensure representative work force participation by Métis and First Nations people in the provincial economy.

Information on measures taken by the Government of Québec can be found in the response to question 44 on the list of issues related to Canada's Fourth Report on the ICESCR.

Coordinating measures to address post-secondary education issues

Issues were also raised regarding whether there are measures being taken at a national level to address issues related to post-secondary education, including increasing tuition fees.

Postsecondary education is an important element of the activities of the Council of Minister of Education Canada (CMEC). CMEC's mandate in postsecondary education is

to coordinate activities and projects that are of collective priority and interest to the provinces and territories, and where there is a value to promoting a Pan-Canadian approach.

The Postsecondary Education Unit works through a collection of committees and working group on a variety of issues. Specific areas of focus currently include:

- Credit Transfer
- Quality Assurance
- An On-line Learning Portal
- Adult Education
- Student Financial Assistance
- Indirect Costs of Research

In follow-up to a review of the mission and mandate of CMEC, ministers decided in September 2004 to place priority emphasis on three aspects of Canadian education in the coming years. One of these priority areas is postsecondary education capacity.

Ministers recognize that Canada's postsecondary education systems face a number of challenges in the broadly defined area of capacity. To address these challenges, ministers have identified objectives and an action plan to help them more fully understand and create change in postsecondary education over the next three years.

Residency requirements in post-secondary education

Generally, while international students studying in Canada may pay higher tuition fees than Canadian residents, most provinces and territories in Canada do not charge additional tuition fees for students from other provinces or territories. However, there are three levels of tuition fees in the province of Québec (from lowest to highest): 1) for residents of Québec; 2) for Canadians who are not residents of Québec; and 3) for international students. Tuition fees for Canadians who are not residents of Québec are closer to the national average.

Improving access and affordability of post-secondary education for disadvantaged or vulnerable groups

The Committee inquired whether students from disadvantaged or vulnerable groups pay less tuition than other students. Assistance for students who belong to disadvantaged groups is provided in the form of federal, provincial and territorial scholarships, bursaries, loans and other types of supports, not lower tuition fees.

For example, the Government of the Northwest Territories provides financial assistance for indigenous Aboriginal students and students who were schooled in the Northwest Territories. Funds totaling \$1,925 for tuition and \$400 for books are available for students from these groups for each semester as straight grants, with no repayment requirements. Travel funding is provided from the student's home community in the

NWT to the postsecondary institution, based on the cost of travel to the nearest institution offering the program the student is taking. In addition, indigenous Aboriginal students may receive \$700 a month as either a supplementary grant or as a remissable loan. To pay back a remissable loan, if a student lives in the NWT after completion of his or her postsecondary education, \$1,000 is forgiven every 3 months. The remissable loan is the only choice for supplementary funding for students who were schooled in the NWT. A further \$1,100 a month is available to Aboriginal students, in cases of severe need, as a loan. This must be repaid, no part is remissable.

Examples of other provincial and territorial services and programs to support students with special needs can be found in the response to question 18 on the list of issues related to Canada's Fifth Report on the ICESCR.

The Government of Canada also makes substantial investments in non-repayable assistance for disadvantaged students. For example, it provides over 20,000 Canada Access Grants worth up to \$3,000 per student per year.

The 2006 federal budget announced:

- Extended eligibility for Canada Student Loans through a reduction of the expected parental contribution, starting in August 2007;
- The elimination of the current \$3,000 limit on the amount of scholarship, bursary and fellowship income a post-secondary student can receive without paying federal income tax;
- A new tax credit for textbooks, which will provide a tax reduction of about \$80 per year for a typical full-time post-secondary student.